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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,768	09/17/2003	Robert D. Dressler		6399

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EXAMINER

A, PHI DIEU TRAN

ART UNIT PAPER NUMBER

3637

DATE MAILED: 01/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/665,768	<b>Applicant(s)</b> DRESSLER, ROBERT D.	
	<b>Examiner</b> Phi D. A	<b>Art Unit</b> 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 June 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/17/03</u> . | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Kwiatkowski (5655334).

Kwiatkowski shows a snow guard assembly comprising an attachment strap (310), the strap having an apparatus for securing the strap to an underlying roof structure, a mounting bracket (321) detachably connected to the strap proximate to one end thereof, a snow retention member (330) detachably connected to the bracket, the member having a body portion that extends on opposing sides of the bracket, the bracket having a top surface formed with an attachment receptacle (at 340) for receiving the member.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-5, 9-10, 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwiatkowski (5655334) in view of Cline (D364338) and Bradley Jr. (6584737).

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Kwiatkowski does not show the attachment receptacle is formed with a wedging edge to correspond to a beveled edge of the snow retention member.

Cline shows a snow retention member having a beveled edge to be attached to a roof supporting structure.

Bradley Jr. shows a bracket (20) having a wedging edge with receptacles for mounting structures to a roof.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Kwiatkowski's structure to show the attachment receptacle is formed with a wedging edge to correspond to a beveled edge of the snow retention member because it would enable the secure mounting of a beveled edge of a snow retention member taught by Cline to a supporting roof structure as taught by Bradley Jr.

Per claims 4-5, Kwiatkowski as modified and specifically per Cline, shows a snow retention member having a base member having a beveled edge (Cline, figure 6), a body member supported by the base member to extend above and laterally to both sides of the base member, a bracket (Cline figure 6, the part that extends to the right of the base) interconnecting the base member and the body member to resist loads imposed on the body member, the base is also formed with a generally vertical edge opposite the beveled edge, the attachment receptacle being formed with a corresponding generally vertical edge,

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kwiatkowski (5655334) in view of Cline (D364338) and Bradley Jr. (6584737).

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Kwiatkowski as modified shows all the claimed limitations except for a locking fastener interengaging the base member and the mounting bracket to secure the snow retention member to the mounting bracket within the receptacle.

Bradley Jr. further shows fasteners (32) interengaging a base member and the mounting bracket (20) to secure the member to the bracket within the receptacle.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Kwiatkowski's modified structure to show a locking fastener interengaging the base member and the mounting bracket to secure the snow retention member to the mounting bracket within the receptacle because the fastener would ensure the member to securely mounted to the bracket as taught by Bradley Jr.

6. Claims 7, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwiatkowski (5655334) in view of Cline (D364338) and Bradley Jr. (6584737).

Kwiatkowski as modified shows all the claimed limitations except for a pair of fasteners interconnecting the strap (310) and the mounting bracket (321).

Bradley Jr. further shows fasteners (50) releasably connecting structures together.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Kwiatkowski's modified structure to show a pair of fasteners interconnecting the strap and the mounting bracket because fasteners would ensure easy detachable assembly of structures together as taught by Bradley Jr.

7. Claims 8, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwiatkowski (5655334) in view of Cline (D364338) and Bradley Jr. (6584737) as applied to claim 7 above, and further in view of Peter (1366703)

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Kwiatkowski as modified shows all the claimed limitations except for the locking fastener interengages the attachment strap and the base by passing through an opening extending through the mounting bracket.

Peter shows a locking fastener (5) interengages an attachment strap (2) and a base (8) by passing through an opening (at 5) extending through the mounting bracket (4).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Kwiatkowski's modified structure to show the locking fastener interengages the attachment strap and the base by passing through an opening extending through the mounting bracket because the fastener would securely holds the different structures together as taught by Peter.

8. Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwiatkowski (5655334) in view of Cline (D364338) and Bradley Jr. (6584737).

Kwiatkowski as modified shows all the claimed limitations except for the base member being formed with a threaded opening extending generally vertically into the brace member, a fastener being interengageable between the mounting member and the threaded opening in the base member to detachable affix the base member in the attachment receptacle.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Kwiatkowski's modified structure to show the base member being formed with a threaded opening extending generally vertically into the brace member, a fastener being interengageable between the mounting member and the threaded opening in the base member to detachable affix the base member in the attachment receptacle because it would secure the body member to the attachment receptacle.

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9. Claims 9-10, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brinker et al (1863561) in view of Cline (D364338)

Brinker et al shows a snow retention member (13) mountable on a corresponding mounting member (7), comprising a base member (10), a body member (13) supported by the base member to extend above and laterally to both sides of the base member, a brace member (Y-supporting member behind the body member) interconnecting the base member and the body member, the mounting member is formed with an attachment receptacle having a wedging edge corresponding to the edge to trap the base member into the attachment receptacle (3).

Brinker does not show the base member having a beveled edge on one side thereof.

Cline shows a base member having a beveled edge on one side thereof.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Brinker et al's structure to show the base member having a beveled edge on one side thereof because it would enable the formation of a body member which is at a desired angle from the pitched roof as taught by Cline.

Per claim 12, Brinker as modified show the body member being integrally formed with the brace member and the base member, the body member being oriented on the base member at a non-perpendicular orientation.

10. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brinker et al (1863561) in view of Cline (D364338).

Brinker et al as modified shows all the claimed limitations except for the base member being formed with a threaded opening extending generally vertically into the brace member, a



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fastener being interengageable between the mounting member and the threaded opening in the base member to detachable affix the base member in the attachment receptacle.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Brinker et al's modified structure to show the base member being formed with a threaded opening extending generally vertically into the brace member, a fastener being interengageable between the mounting member and the threaded opening in the base member to detachable affix the base member in the attachment receptacle because it would secure the body member to the attachment receptacle.

11. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brinker et al (1863561) in view of Cline (D364338) as applied to claim 12 above, and further in view of Laird (473512).

Brinker et al as modified shows all the claimed limitations except for the brace member extending both in front and in rear of the body member.

Laird shows a brace member (e, H) extending both in front and in rear of the body member [c].

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Brinker et al's modified structure to show the brace member extending both in front and in rear of the body member because it would enable the reinforcing support of the body member from the front and the back as taught by Laird.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different snow guard assemblies.



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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Phi Dieu Tran A

1/8/06